

REVENUE DEPARTMENT[701]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 42, “Adjustments to Computed Tax and Tax Credits,” Chapter 52, “Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits,” and Chapter 58, “Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits,” Iowa Administrative Code.

These amendments are proposed as a result of 2014 Iowa Acts, Senate File 2340, and 2014 Iowa Acts, House Files 2438 and 2473.

Item 1 amends rule 701—42.48(422) to reflect changes to the solar energy system tax credit for systems installed during tax years beginning on or after January 1, 2014, for individual income tax.

Item 2 amends rule 701—52.44(422) to reflect changes to the solar energy system tax credit for systems installed during tax years beginning on or after January 1, 2014, for corporation income tax. This change is similar to the change in Item 1.

Item 3 amends Chapter 58 by adding new rule 701—58.22(422) to provide for the solar energy system tax credit for franchise tax for systems installed during tax years beginning on or after January 1, 2014.

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any person who believes that the application of the discretionary provisions of these amendments would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than September 22, 2014, to the Policy Section, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before September 9, 2014. Such written comments should be directed to the Policy Section, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. Persons who want to convey their views orally should contact the Policy Section, Policy and Communications Division, Department of Revenue, at (515)281-8450 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by September 9, 2014.

After analysis and review of this rule making, no adverse impact on jobs has been found. The tax credits may positively impact job and economic growth for businesses and individuals in the state of Iowa.

These amendments are intended to implement Iowa Code section 422.11L as amended by 2014 Iowa Acts, Senate File 2340 and House File 2473; section 422.33 as amended by 2014 Iowa Acts, House File 2473; and section 422.60 as amended by 2014 Iowa Acts, House Files 2438 and 2473.

The following amendments are proposed.

ITEM 1. Amend rule 701—42.48(422) as follows:

701—42.48(422) Solar energy system tax credit. For tax years beginning on or after January 1, 2012, a solar energy system tax credit is available for both residential property and business property located in Iowa.

42.48(1) Property eligible for the tax credit. The following property located in Iowa is eligible for the tax credit:

- a. Qualified solar water heating property described in Section 25D(d)(1) of the Internal Revenue Code.
- b. Qualified solar energy electric property described in Section 25D(d)(2) of the Internal Revenue Code.
- c. Equipment which uses solar energy to generate electricity, to heat or cool (or to provide hot water for use in) a structure, or to provide solar process heat (excepting property used to generate energy for the purposes of heating a swimming pool) and which is eligible for the federal energy credit as described in Section 48(a)(3)(A)(i) of the Internal Revenue Code.
- d. Equipment which uses solar energy to illuminate the inside of a structure using fiber-optic distributed sunlight and which is eligible for the federal energy credit as described in Section 48(a)(3)(A)(ii) of the Internal Revenue Code.

42.48(2) Calculation of credit for systems installed during tax years beginning on or after January 1, 2012, but before January 1, 2014. The credit is equal to the sum of the following federal tax credits:

- a. Fifty percent of the federal residential energy property credit provided in Section 25D(a)(1) of the Internal Revenue Code.
- b. Fifty percent of the federal residential energy property credit provided in Section 25D(a)(2) of the Internal Revenue Code.
- c. Fifty percent of the federal energy credit provided in Section 48(a)(2)(A)(i)(II) of the Internal Revenue Code.
- d. Fifty percent of the federal energy credit provided in Section 48(a)(2)(A)(i)(III) of the Internal Revenue Code.

The amount of tax credit claimed by a taxpayer related to paragraphs 42.48(2)“a” and “b” cannot exceed \$3,000 for a tax year. The amount of tax credit claimed by a taxpayer related to paragraphs 42.48(2)“c” and “d” cannot exceed \$15,000 for a tax year.

The federal residential energy efficient tax credits are allowed for installations that are completed and the federal energy tax credits for solar energy systems are ~~currently~~ allowed for installations that are placed in service ~~on or before December 31, 2016~~ before January 1, 2014. ~~Therefore, the Iowa tax credit will be available for the 2012 to 2016 tax years for systems placed in service on or before December 31, 2016.~~ The solar energy system must be installed on or after January 1, 2012, to qualify for the Iowa credit. If the taxpayer installed a solar energy system and initially reported the federal tax credit for a tax year beginning prior to January 1, 2012, no Iowa credit will be allowed.

EXAMPLE: A taxpayer reported a \$9,000 residential energy efficient tax credit on the 2011 federal return due to an installation of a solar energy system that was placed in service in 2011. The taxpayer applied \$4,000 of the credit on the taxpayer’s 2011 federal return since the federal tax liability was \$4,000. The remaining \$5,000 of federal credit was applied on the 2012 federal return. No credit will be allowed on the 2012 Iowa return since the installation was placed in service before January 1, 2012.

42.48(3) Calculation of credit for systems installed during tax years beginning on or after January 1, 2014, but before January 1, 2017. The credit is equal to the sum of the following federal tax credits:

- a. Sixty percent of the federal residential energy property credit provided in Section 25D(a)(1) of the Internal Revenue Code.
- b. Sixty percent of the federal residential energy property credit provided in Section 25D(a)(2) of the Internal Revenue Code.
- c. Sixty percent of the federal energy credit provided in Section 48(a)(2)(A)(i)(II) of the Internal Revenue Code.

d. Sixty percent of the federal energy credit provided in Section 48(a)(2)(A)(i)(III) of the Internal Revenue Code.

The amount of tax credit claimed by a taxpayer related to paragraphs 42.48(3) “a” and “b” cannot exceed \$5,000 for a tax year. The amount of tax credit claimed by a taxpayer related to paragraphs 42.48(3) “c” and “d” cannot exceed \$20,000 for a tax year.

The federal residential energy efficient tax credits are allowed for installations that are completed on or before December 31, 2016, and the federal energy tax credits for solar energy systems are allowed for installations that are placed in service on or before December 31, 2016. Therefore, the Iowa tax credit is available for installations that are either completed or placed in service before January 1, 2017. If the federal residential energy property tax credits or the federal energy credits are extended to installations completed or placed in service on or after January 1, 2017, the Iowa tax credit will also be extended.

~~42.48(3)~~ 42.48(4) Application for the tax credit. No more than \$1.5 million of tax credits for solar energy systems are allowed for ~~each of the~~ tax years 2012 ~~to 2016~~ and 2013. The \$1.5 million cap also includes the solar energy system tax credits provided in rule 701—52.44(422) for corporation income tax. No more than \$4.5 million of tax credits for solar energy systems is allowed for each of the tax years 2014 to 2016. The \$4.5 million cap does not include any dollars allocated to a previous tax year that roll over to the 2015 and 2016 tax years. The \$4.5 million cap also includes the solar energy system tax credits provided in rule 701—52.44(422) for corporation income tax and in rule 701—58.22(422) for franchise tax. Credits will be reserved Awards of tax credits are made on a first-come, first-served basis. At least \$1 million of the \$4.5 million cap for the 2014 to 2016 tax years is reserved for residential installations. If the total amount of credits for residential installations for a tax year is less than \$1 million, the remaining amount below \$1 million will be allowed for nonresidential installations. If the \$4.5 million cap for the 2014 and 2015 tax years is not reached, the remaining amount below \$4.5 million will be allowed to be carried forward to the following tax year and shall not count toward the cap for that year.

a. A taxpayer may claim one tax credit for each separate and distinct solar installation. In order for an installation to be considered a separate and distinct solar installation, both of the following factors must be met:

(1) Each installation must be eligible for the federal residential energy property credit or the federal energy credit as provided in subrule 42.48(3).

(2) Each installation must have separate metering.

~~a. b.~~ In order to ~~reserve~~ request the tax credit, a taxpayer must complete an application for the solar energy tax credit for each separate and distinct installation. For installations completed on or after January 1, 2014, the application must be filed by May 1 following the year of installation of the solar energy system. The application must contain the following information:

(1) Name, address and federal identification number of the taxpayer.

(2) Date of installation of the solar energy system.

(3) The kilowatt capacity of the solar energy system.

~~(3) (4)~~ Copies of invoices or other documents showing the cost of the solar energy system.

~~(4) (5)~~ Amount of federal income tax credit for the solar energy system.

~~(5) (6)~~ Amount of Iowa tax credit ~~to be reserved~~ requested.

(7) For nonresidential installations, a completion sheet from a local utility company verifying that the system has been placed in service. If a completion sheet is not available from the local utility company, a statement shall be provided that is similar to the one required to be attached to federal Form 3468 when claiming the federal energy credit and that specifies the date the system was placed in service.

~~b. c.~~ If the application is approved, the department will send a letter to the taxpayer ~~reserving~~ including the amount of the tax credit and providing a tax credit certificate number. The solar energy system tax credit will be claimed on Form IA 148, Tax Credit Credits Schedule. Any tax credit in excess of the tax liability for the tax year may be credited to the tax liability for the following ten years or until used, whichever is the earlier. The taxpayer must ~~attach to~~ include with any Iowa tax return claiming the solar energy system tax credit federal Form 5695, Residential Energy Credits, if claiming the residential energy credit or federal Form 3468, Investment Credit, if claiming the business energy credit.

If the department receives applications for tax credits in excess of the \$1.5 million available for 2012 and 2013 and the \$4.5 million available for 2014 to 2016, the applications will be prioritized by the date the department received the applications. If the number of applications exceeds the \$1.5 or \$4.5 million of tax credits available, the department shall establish a wait list for the next year's allocation of tax credits and the applications shall first be funded in the order listed on the wait list. However, if the \$1.5 \$4.5 million cap of tax credit is reached for 2016, no applications in excess of the \$1.5 \$4.5 million cap will be carried over to the next year, assuming there is no extension of the federal credit.

EXAMPLE: A taxpayer submitted an application for a \$2,500 tax credit on December 1, 2012, for an installation that occurred in 2012. The application was denied on December 15, 2012, because the \$1.5 million cap had already been reached for 2012. The taxpayer will be placed on a wait list and will receive priority for receiving the tax credit for the 2013 tax year. However, if the application was submitted on December 1, 2016, for an installation that occurred in 2016 and the \$1.5 \$4.5 million cap had already been reached for 2016, no tax credit will be allowed for the 2017 tax year, assuming there is no extension of the federal credit.

~~e. d.~~ A taxpayer who is eligible to receive a renewable energy tax credit provided in rule 701—42.28(422,476C) is not eligible for the solar energy system tax credit.

42.48(4) 42.48(5) *Allocation of tax credit to owners of a business entity.* If the taxpayer claiming the tax credit based on a percentage of the federal energy credit under Section 48 of the Internal Revenue Code is a partnership, limited liability company, S corporation, estate or trust electing to have income taxed directly to the individual, the individual may claim the tax credit. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, estate or trust. The maximum amount of credit available to a partnership, limited liability company, S corporation, estate or trust shall be limited to \$15,000 for a single tax year installations placed in service in tax years 2012 and 2013 and \$20,000 for installations placed in service in tax years 2014 to 2016.

This rule is intended to implement ~~2012 Iowa Acts, Senate File 2342, section 7~~ Iowa Code section 422.11L as amended by 2014 Iowa Acts, Senate File 2340, and 2014 Iowa Acts, House File 2473, section 77.

ITEM 2. Amend rule 701—52.44(422) as follows:

701—52.44(422) Solar energy system tax credit. For tax years beginning on or after January 1, 2012, a solar energy system tax credit is available for business property located in Iowa.

52.44(1) *Property eligible for the tax credit.* The following property located in Iowa is eligible for the tax credit:

a. Equipment which uses solar energy to generate electricity, to heat or cool (or to provide hot water for use in) a structure, or to provide solar process heat (excepting property used to generate energy for the purposes of heating a swimming pool) and which is eligible for the federal energy credit as described in Section 48(a)(3)(A)(i) of the Internal Revenue Code.

b. Equipment which uses solar energy to illuminate the inside of a structure using fiber-optic distributed sunlight and which is eligible for the federal energy credit as described in Section 48(a)(3)(A)(ii) of the Internal Revenue Code.

52.44(2) *Calculation of credit for systems installed during tax years beginning on or after January 1, 2012, but before January 1, 2014.* The credit is equal to the sum of the following federal tax credits:

a. Fifty percent of the federal energy credit provided in Section 48(a)(2)(A)(i)(II) of the Internal Revenue Code.

b. Fifty percent of the federal energy credit provided in Section 48(a)(2)(A)(i)(III) of the Internal Revenue Code.

The amount of tax credit claimed by a taxpayer related to paragraphs 52.44(2) "a" and "b" cannot exceed \$15,000 for a tax year.

The federal energy tax credit credits for solar energy systems ~~is currently~~ are allowed for installations that are placed in service ~~on or before December 31, 2016~~ before January 1, 2014. ~~Therefore, the Iowa tax credit will be available for the 2012 to 2016 tax years for systems placed in service on or before~~

~~December 31, 2016.~~ The solar energy system must be placed in service on or after January 1, 2012, to qualify for the Iowa credit. If the taxpayer installed a solar energy system and initially reported the federal tax credit for a tax year beginning prior to January 1, 2012, no Iowa credit will be allowed.

EXAMPLE: A taxpayer reported a \$9,000 energy credit on the 2011 federal return due to an installation of a solar energy system that was placed in service in 2011. The taxpayer applied \$4,000 of the credit on the taxpayer's 2011 federal return since the federal tax liability was \$4,000. The remaining \$5,000 of federal credit was applied on the 2012 federal return. No credit will be allowed on the 2012 Iowa return since the installation was placed in service before January 1, 2012.

52.44(3) Calculation of credit for systems installed during tax years beginning on or after January 1, 2014, but before January 1, 2017. The credit is equal to the sum of the following federal tax credits:

a. Sixty percent of the federal energy credit provided in Section 48(a)(2)(A)(i)(II) of the Internal Revenue Code.

b. Sixty percent of the federal energy credit provided in Section 48(a)(2)(A)(i)(III) of the Internal Revenue Code.

The amount of tax credit claimed by a taxpayer related to paragraphs 52.44(3) "a" and "b" cannot exceed \$20,000 for a tax year.

The federal energy tax credit for solar energy systems is allowed for installations that are placed in service on or before December 31, 2016. Therefore, the Iowa tax credit is available for installations placed in service before January 1, 2017. If the federal energy tax credit is extended to installations placed in service on or after January 1, 2017, the Iowa credit will also be extended.

52.44(3) 52.44(4) Application for the tax credit. No more than \$1.5 million of tax credits for solar energy systems are allowed for ~~each of the~~ tax years 2012 ~~to 2016~~ and 2013. The \$1.5 million cap also includes the solar energy system tax credits provided in rule 701—42.48(422) for individual income tax. No more than \$4.5 million of tax credits for solar energy systems is allowed for each of the tax years 2014 to 2016. The \$4.5 million cap does not include any dollars allocated to a previous tax year that roll over to the 2015 and 2016 tax years. The \$4.5 million cap also includes the solar energy system tax credits provided in rule 701—42.48(422) for individual income tax and in rule 701—58.22(422) for franchise tax. Credits will be reserved Awards are made on a first-come, first-served basis. At least \$1 million of the \$4.5 million cap for the 2014 to 2016 tax years is reserved for residential installations. If the total amount of credits for residential installations for a tax year is less than \$1 million, the remaining amount below \$1 million will be allowed for nonresidential installations. If the \$4.5 million cap for the 2014 and 2015 tax years is not reached, the remaining amount below \$4.5 million will be allowed to be carried forward to the following tax year and shall not count toward the cap for that tax year.

a. A taxpayer may claim one tax credit for each separate and distinct solar installation. In order for an installation to be considered a separate and distinct solar installation, both of the following factors must be met:

(1) Each installation must be eligible for the federal energy credit as provided in subrule 52.44(3).

(2) Each installation must have separate metering.

~~a. b.~~ In order to ~~reserve~~ request the tax credit, a taxpayer must complete an application for the solar energy tax credit for each separate and distinct installation. For installations completed on or after January 1, 2014, the application must be filed by May 1 following the year of installation of the solar energy system. The application must contain the following information:

(1) Name, address and federal identification number of the taxpayer.

(2) Date of installation of the solar energy system.

(3) The kilowatt capacity of the solar energy system.

~~(3) (4)~~ Copies of invoices or other documents showing the cost of the solar energy system.

~~(4) (5)~~ Amount of federal income tax credit for the solar energy system.

~~(5) (6)~~ Amount of Iowa tax credit ~~to be reserved~~ requested.

(7) A completion sheet from a local utility company verifying that the system has been placed in service. If a completion sheet is not available from the local utility company, a statement shall be provided that is similar to the one required to be attached to federal Form 3468 when claiming the federal energy credit and that specifies the date the system was placed in service.

~~b. c.~~ If the application is approved, the department will send a letter to the taxpayer ~~reserving~~ including the amount of the tax credit and providing a tax credit certificate number. The solar energy system tax credit will be claimed on Form IA 148, Tax ~~Credit~~ Credits Schedule. Any tax credit in excess of the tax liability for the tax year may be credited to the tax liability for the following ten years or until used, whichever is the earlier. The taxpayer must ~~attach~~ include federal Form 3468, Investment Credit, ~~to with any~~ Iowa tax return claiming the solar energy system tax credit.

If the department receives applications for tax credits in excess of the \$1.5 million available for 2012 and 2013 and the \$4.5 million available for 2014 to 2016, the applications will be prioritized by the date the department received the applications. If the number of applications exceeds the \$1.5 or \$4.5 million of tax credits available, the department shall establish a wait list for the next year's allocation of tax credits and the applications shall first be funded in the order listed on the wait list. However, if the ~~\$1.5~~ \$4.5 million cap of tax credit is reached for 2016, no applications in excess of the ~~\$1.5~~ \$4.5 million cap will be carried over to the next year, assuming there is no extension of the federal credit.

EXAMPLE: A taxpayer submitted an application for a \$2,500 tax credit on December 1, 2012, for an installation that occurred in 2012. The application was denied on December 15, 2012, because the \$1.5 million cap had already been reached for 2012. The taxpayer will be placed on a wait list and will receive priority for receiving the tax credit for the 2013 tax year. However, if the application was submitted on December 1, 2016, for an installation that occurred in 2016 and the ~~\$1.5~~ \$4.5 million cap had already been reached for 2016, no tax credit will be allowed for the 2017 tax year, assuming there is no extension of the federal credit.

~~e. d.~~ A taxpayer who is eligible to receive a renewable energy tax credit provided in rule 701—52.27(422,476C) is not eligible for the solar energy system tax credit.

~~52.44(4)~~ **52.44(5)** *Allocation of tax credit to owners of a business entity.* If the taxpayer claiming the tax credit based on a percentage of the federal energy credit under Section 48 of the Internal Revenue Code is a partnership, limited liability company, S corporation, estate or trust electing to have income taxed directly to the individual, the individual may claim the tax credit. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, estate or trust. The maximum amount of credit available to a partnership, limited liability company, S corporation, estate or trust shall be limited to \$15,000 for a single tax year installations placed in service in tax years 2012 and 2013 and \$20,000 for installations placed in service in tax years 2014 to 2016.

This rule is intended to implement Iowa Code section 422.33 as amended by ~~2012~~ 2014 Iowa Acts, Senate House File 2342 2473, section 8 76.

ITEM 3. Adopt the following **new** rule 701—58.22(422):

701—58.22(422) Solar energy system tax credit. Effective for installations placed in service during tax years beginning on or after January 1, 2014, a solar energy system tax credit for financial institutions is available for business property located in Iowa. For information on property eligible for the credit, the calculation of the credit and applying for the credit, see rule 701—52.44(422).

This rule is intended to implement Iowa Code section 422.60 as amended by 2014 Iowa Acts, House File 2438, section 27, and 2014 Iowa Acts, House File 2473, section 78.